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| <b>Notice of Allowability</b> | Application No. | Applicant(s)     |  |
|                               | 09/538,821      | DOUGLAS W. MORCK |  |
|                               | Examiner        | Art Unit         |  |
|                               | Leigh McKane    | 1744             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment of 11 February 2004 and Examiner's Amendment.
2. ☒ The allowed claim(s) is/are 1,4-8 and 38-46.
3. ☒ The drawings filed on 30 March 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☒ None    of the:
  1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|--|---|
| <ol style="list-style-type: none"><li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li><li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li><li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____</li><li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material</li></ol> | <ol style="list-style-type: none"><li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li><li>6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____</li><li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li><li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li><li>9. <input type="checkbox"/> Other _____</li></ol> |
|--|---|

*Leigh McKane*  
Leigh McKane  
Primary Examiner  
Art Unit: 1744

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Bruce Green on 7 April 2004.

The application has been amended as follows:

Amend claim 38 as follows:

Claim 38 (currently amended): An apparatus for reducing outbreaks of aseptic inflammations of the eye resulting from eye surgery comprising a sterilizer for sterilizing medical instruments used in said eye surgery with steam comprising a housing containing a steam generator supplied by a dispensing pump and a sterilization container for containing said medical instruments, and further comprising a reservoir for containing distilled water which holds and supplies distilled water to said steam generator, and means for liquid communication between said reservoir and said dispensing pump and between said dispensing pump and said steam generator, wherein said reservoir is a replaceable reservoir of sterile endotoxin-free distilled water adapted to be removed and replaced when emptied of distilled water.

In claim 41:

In line 1, change "39" to --40--. In line 2, change "removeable" to --removable--.

In claim 42:

In line 1, change "39" to --40--. In line 2, change "removeable" to --removable--.

2. The following is an examiner's statement of reasons for allowance:

While the prior art of record evidences the known use of steam sterilizers for the sterilization of medical implements, the prior art did not recognize the problem associated with endotoxin contamination of medical instruments. Therefore, as the prior art fails to recognize this problem, the prior art fails to provide any teaching or suggestion to fabricate the water reservoir of a material capable of withstanding a temperature sufficient to destroy endotoxins therein. Moreover, the prior art teaches only the use of distilled water, as distinguished from sterile, *endotoxin-free* distilled water, because it was believed that the temperature necessary to convert the water to steam was sufficient to destroy pathogens in the water. Although this is true to an extent, the temperature necessary to convert water to steam is *not sufficient to destroy endotoxins*, therefore in order to reduce outbreaks of aseptic inflammation it is necessary to provide a source of sterile, *endotoxin-free* distilled water.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh McKane whose telephone number is 571-272-1275. The examiner can normally be reached on Monday-Wednesday (7:15 am-4:45 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1275. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**Leigh McKane**  
**Primary Examiner**  
**Art Unit 1744**

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12 April 2004